IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.10759 of 2007

Narendra Kumar, son of Late Kalicharan Prasad, resident of Munger Road behind Church, Baridariyapur, P.S. Jamalpur, District-Munger
---------- **Petitioner**

Versus

1. The State of Bihar
2. Sri Ganesh Singh, son of late Pragas Singh, resident of village-Wilias Town, Deoghar, P.O. & District-Deoghar, at present Posted as Branch Manager, Central Bank of India, Khagaur Branch, P.S. Lakhisarai, District-Lakhisarai

---------- **Opp.Parties**

For the petitioner : M/S Dhrub Narayan, Sr. Advocate and Indu Bhushan, Advocate
For the State : Mr.Jharkhandi Upadhaya, A.P.P.
For Opp.Party no.2 : Mr. Bimlendu Mishra, Advocate.

O R D E R

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The instant application is directed against the order dated 23.12.2006 passed by the learned Sub Divisional Judicial Magistrate, Lakhisarai , in Lakhisarai P.S. Case No.232 of 2006 whereunder cognizance for the offences under Sections 409, 120B , 420 / 34 I.P.C. has been taken against the petitioner and another.

The prosecution case in brief as culled out from the written report submitted by the Branch Manager, Central Bank of India, Khagaur Branch, impleaded herein as Opp.Party no.2, inter alia is that on 22.6.2006 it was suddenly detected that Rs.5,10,000/- was found missing in a mysterious way from the Bank. It is alleged that on 21.6.2006 the Head Cashier, Raj Kishore Prasad and the petitioner had closed the Bank chest/ vault under their joint signature and when on 22.6.2006 , Devendra Singh , the Incharge of cash and Deputy

Manager, joined the office after availing leave, the petitioner who was officiating in his place handed over the Vault keys to him. It is said that at the time of opening of the Vault by Raj Kishore Prasad in the presence of Devendra Singh , there was no reporting of any missing cash but at about 11.15 A.M. Raj Kishore Prasad reported to some staff that Rs.10, 000/- was missing from the cash counter. Enquiry yielded no positive result. It is alleged that Raj Kishore Prasad left the Bank on the pretext of meeting some person and returned after half an hour. On his return , he along with Devendra Singh and the petitioner made a thorough enquiry and it was found that in all Rs.5,10,000/- was missing from the Bank Vault.

The F.I.R. was lodged against Devendra Singh, Raj Kishore Prasad and the petitioner. After due investigation the police submitted a charge sheet against Raj Kishore Prasad and the petitioner and kept the investigation pending against Devendra Singh.

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The submission advanced on behalf of the petitioner is that when on 21.6.2006 the cash was verified by Raj Kishore Prasad and the petitioner and entries in that regard was made in the relevant registers at the time of closing and at the time of opening of the Vault on the following day the petitioner had no role to play as he had already handed over the keys to Devendra Singh and the Vault was opened in his presence. It was also submitted that the higher authorities of the Bank had inspected the Bank and on enquiry they found no material against the petitioner in the alleged offence.

I find no merit in these submissions of the learned counsel

for the petitioner as the police after due investigation has submitted a charge sheet against the petitioner and another as there were materials against them and the learned Magistrate after perusing the case diary took cognizance .

In view of the discussions made above I find no merit in this application and dismiss the same.

However, at the stage of framing of charge, the petitioner shall be at liberty to raise all the issues and the court below will pass orders without being prejudiced by the fact that his application for quashing of cognizance has been dismissed.

(Abhijit Sinha, J)

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Patna High Court, Patna
Dated : the 19th December,2008
Nawal Kishore Singh/ A.F.R.